Andrew T. Thomasson, Esq.*
Managing Member

*Admitted in NJ Only

THOMASSON LAW, LLC

101 Hudson Street, 21st Floor
Jersey City, NJ 07302
Telephone: (201) 479-9969

WRITER'S DIRECT DIAL:
(973) 665-2056 telephone
(855) 479-9969 facsimile

WRITER'S E-MAIL:
andrew@thomassonllc.com

September 15, 2014

Hon. Thomas P. Griesa, U.S.D.J.
UNITED STATES DISTRICT COURT
Southern District of New York
500 Pearl Street
New York, NY 10007-1312

Re: ***Gillman Harris, et al. v. Midland Credit Management, Inc.***
S.D.N.Y. Case No. 1:13-cv-03125-TPG

Dear Senior Judge Griesa,

I am Class Counsel in the referenced matter, and I submit this letter to the Court with the consent of Defendant's counsel. On Tuesday, September 9, 2014, the Court entered an Order granting preliminary approval to the Parties' Joint Motion for Class Certification. [Doc. 22]. In reviewing the Court's Order, the Parties noticed the Court set the Final Fairness hearing for December 5, 2014, which is 87 days after the Court's entry of the order granting preliminary approval.

Pursuant to the Class Action Fairness Act, 28 U.S.C. §1715(b) ("CAFA"), Defendant must serve notice of the Parties' settlement on the Appropriate State and Federal Officials within 10 days after the proposed class settlement was filed in Court (i.e., by September 18, 2014). Additionally, as part of the notice process CAFA also requires that:

> An order giving final approval of a proposed settlement may not be issued earlier than **90 days** after the later of the dates on which the appropriate Federal official and the appropriate State official are served with the notice required under subsection (b).

28 U.S.C. §1715(d) (Emphasis added). Because the Fairness Hearing is scheduled for 87 days *after* the entry of the Court's preliminary approval order, it will be impossible for Defendant to comply with §1715(d). All other dates in the preliminary approval order are correct. Accordingly, Defendant's counsel contacted Your Honor's chambers on September 12, 2014, to explain the issue and was provided a new date for the Fairness Hearing – i.e., January 16, 2015.

Pursuant to the Court's instruction, the Parties have enclosed herewith an amended Preliminary Approval Order for the Court's consideration, which revises the date of the Final Fairness hearing in Paragraph 8 to January 16, 2015, and incorporates all other dates set by the Court.

Should the Court approve, the Parties respectfully Your Honor sign and enter the enclosed order so they may proceed with providing notice under CAFA and to the class.

Respectfully submitted,

Andrew T. Thomasson, Esq.
Encl:stated
via ECF Filing Only
cc: All Counsel of Record *via ECF Filing*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARCY GILLMAN HARRIS; an individual; on behalf of herself and all others similarly situated, Plaintiffs, vs. MIDLAND CREDIT MANAGEMENT, INC., a Kansas Corporation, Defendant.	CASE NO.: 1:13-cv-03125-TPG **[PROPOSED] AMENDED PRELIMINARY APPROVAL ORDER**

The Court, having considered the Parties' motion for preliminary approval, hereby grants preliminary approval to the Class Settlement Agreement ("Agreement") between Plaintiff, Marcy Gillman Harris ("Plaintiff"), individually, and as representative of the class of persons defined below ("Settlement Class"), and Defendant, Midland Credit Management, Inc. ("Defendant").

WHEREFORE, with respect to certifying this action as a class action for settlement purposes the Court finds:

A. The Settlement Class is so numerous that joinder of all members is impracticable;

B. There are questions of law and fact common to the proposed Settlement Class.

C. The individual claims of Plaintiff are typical of the claims of the Settlement Class;

D. Plaintiff is an appropriate and adequate representative for the Settlement Class;

E. The questions of law and fact common to the Settlement Class predominate over any questions affecting only individual members;

F. A class action is superior to other methods for fairly and efficiently settling this controversy;

G. With respect to the appointment of Settlement Class Counsel under Fed. R. Civ. P. 23(g), the Court finds, after consideration of the factors described in Fed. R. Civ. P. 23(g)(1)(A), Plaintiff's counsel, Andrew T. Thomasson and Abraham Kleinman, will fairly and adequately represent the interests of the Settlement Class;

H. With respect to the proposed Agreement, after consideration of the Agreement attached as ***Exhibit A*** to the Motion, the Court makes the preliminary finding, subject to a final hearing, that the proposed settlement is fair, reasonable, and adequate;

I. and the Court being duly advised in the premises,

IT IS HEREBY ORDERED:

1. Pursuant to Fed. R. Civ. P. 23(c)(1), the Court certifies this action as a class action pursuant to Fed. R. Civ. P. 23(b)(3) and, in accordance with Fed. R. Civ. P. 23(c)(1)(B):

(a) defines the "Settlement Class" as: all natural persons located in the State of New York, according to the last known address maintained in Defendant's records, who were mailed a letter from Defendant in connection with an attempt to collect a Chase Bank USA N.A. debt, where the letter was not returned as undeliverable, and which was substantially similar to the letter appended to the Complaint as Exhibit "A", containing language regarding the "Benefits of Paying" and cessation of interest, during the period beginning May 9, 2012, and ending May 30, 2013.

(b) defines the "Class Claims" as those claims arising from Defendant's written collection letters sent to Plaintiff and the Settlement Class members, which where the letters contained language substantially similar to the form in the letter attached to Plaintiff's Complaint [Doc. 1], which provided, in part, that a benefit of paying would be that "no additional interest will be charged to your account" and that "because of interest, late charges, and other charges that may vary from day to day the amount due on the day you pay may be greater [than the balance on the letter], which language allegedly violates 15 U.S.C. §§ 1692e, 1692e(2)(A), 1692e(5), 1692e(10), 1692f, 1692f(1), and 1692g(a)(1);

(c) appoints Plaintiff as the Class Representative; and

(d) appoints Plaintiff's counsel, Andrew T. Thomasson and Abraham Kleinman, as Class Counsel.

2. The Court approves the Parties' proposed Class Notice and directs it be mailed to the last known address of the Settlement Class members as shown in Defendant's records. Defendant will cause the Class Notice to be mailed to Settlement Class members on or before Friday, October 10, 2014. Defendant will have the notice sent by any form of U.S. Mail providing forwarding addresses.

3. The Court finds that mailing of the Class Notice is the only notice required and that such notice satisfies the requirements of due process pursuant to the Federal Rules of Civil Procedure, including Rule 23, the United States Constitution, and any other applicable law.

4. Settlement Class members shall have until Tuesday, November 25, 2014, to exclude themselves from or object to the proposed settlement. Any Settlement Class members desiring to exclude themselves from the action must serve copies of the request on Class Counsel and Defendant's counsel by that date.

5. Any Settlement Class members who wish to object to the settlement must submit an objection in writing to the Clerk of the United States District Court for the Southern District of New York, and serve copies of the objection on Class Counsel and Defendant's counsel by that date. Any objection must include the name and number of the case and a statement of the reason why the objector believes that the Court should find that proposed settlement is not in the best interests of the class. Objectors who have filed written objections to the settlement may also appear at the hearing and be heard on the fairness of the settlement. To be effective, the request for exclusion or objection must be postmarked by Tuesday, November 25, 2014.

6. In order to receive a portion of the cash payment under the settlement, the Settlement Class members must complete, return to the settlement administrator, and postmark a claim form by Tuesday, November 25, 2014. The claim form will be sent with the Class Notice.

7. Defendant shall file with the Court proof of compliance with the notice requirements of the Class Action Fairness Act of 2005, 28 U.S.C. §1715(b).

8. A final hearing on the fairness and reasonableness of the Agreement and whether the final approval shall be given to it and the requests for fees and expenses by Class Counsel will be held on Friday, January 16, 2015, at 2:30 p.m.

IT IS SO ORDERED:

HONORABLE THOMAS P. GRIESA
Senior Judge, United States District Court

Dated: